

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6983

Petition of the Vermont Department of Public Service)	
for approval of a telecommunications equipment grant)	Hearing at
program and the proposed contract(s) for vendors to)	Montpelier, Vermont
distribute the equipment)	August 5, 2004
)	

Order entered: 9/20/2004

PRESENT: Peter M. Bluhm, Hearing Officer

APPEARANCES: Sarah Hofmann, Esq.
James Volz, Esq., Director for Public Advocacy
for Vermont Department of Public Service

I. INTRODUCTION

On July 16, 2004, the Vermont Department of Public Service ("Department") filed a petition with the Vermont Public Service Board (the "Board") to open an investigation for the purpose of approving a contract to administer the program application process and the distribution of benefits of the Vermont Equipment Distribution Program ("VT-EDP"). Also on that date, the Department submitted the prefiled testimony of Deena Frankel supporting the approval of the proposed VT-EDP contract.

The Board opened an investigation, and a Technical Hearing was held on August 5, 2004. The Department's witness Frankel and Department counsel were the only attendees. Ms. Frankel's testimony and exhibits were entered into the record.

There are no contested issues of fact or law in this docket. The Hearing Officer reports the following findings to the Board in accordance with 30 V.S.A. § 8.

II. FINDINGS

1. The VT-EDP program is funded through the Vermont Universal Service Fund. The program distributes not more than \$75,000.00 per year, which must cover both program cost and administrative cost. Frankel pf. at 6, 8.

2. Statistics and anecdotal information show that the VT-EDP program meets a need, but the program has never expended all of the benefit dollars available. In fiscal years 2001 through 2003, the VT-EDP program spent between 30 percent and 46 percent of its equipment budget. This was the result of ineffective "outreach" and failure to reach the target audience. Frankel pf. at 9.

3. The VT-EDP has historically faced a design challenge concerning its lack of economy of scale. The program has certain organizational needs whether ten or one hundred people apply for benefits. Frankel pf. at 9.

4. In fiscal years 2001 through 2003, between 48 percent and 59 percent of the VT-EDP program expenditures were for administration. This was in part due to lower than expected program benefits. Frankel pf. at 9.

5. In April 2004, the Department issued a request for proposal ("RFP") for the administration of the VT-EDP program. The RFP was distributed to potential vendors and was posted on the Department of Economic Development's Vermont Business Assistance Network. Frankel pf. at 7.

6. The Department received three proposals. One proposal was from the Vermont Center for the Deaf and Hard of Hearing ("VCDHH"). VCDHH is a statewide organization service for deaf and hard of hearing Vermonters. Frankel pf. at 6.

7. Other proposals came from the Vermont Center for Independent Living and from BayFirst Solutions, a consulting firm located in Washington, D.C. Frankel pf. at 10.

8. The Department and a member of the VT-EDP Advisory Council reviewed the proposals. The Council member participating in the review also serves as the Coordinator of Deaf Services for the Vermont Department of Aging and Independent Living. Frankel pf. at 7.

9. VCDHH proposed a realistic approach to staffing and outreach for VT-EDP. It offered geographic diversity, since it has offices in Williston, Barre and Brattleboro. Additionally, the VCDHH proposal offered to interact with 17 other organizations providing services to families, school-aged children and adults with hearing disabilities around the state, along with eight state contracts for service. VCDHH's proposal takes advantage of synergies with other programs that VCDHH administers. Frankel pf. at 6, 11.

10. VCDHH is financially stable. This will ensure an appropriate level of competence in program administration, billing, accounting and other financial matters. VCDHH should be able to maximize the use of the available funds and manage the program effectively. Frankel pf. at 11.

11. The VCDHH bid would allocate the \$75,000.00 annual expenditures as follows:

	Administration	Benefits	Total	Admin Pct.
Year 1	\$ 46,761	\$ 28,239	\$ 75,000	62%
Year 2	\$ 44,684	\$ 30,316	\$ 75,000	60%

Exh. DPS-1.

12. Two other bidders provided significantly weaker proposals. One of the potential contractors was the Vermont Center for Independent Living, the former VT-EDP administrator. However, that organization was not successful in its outreach efforts and has had financial and personnel problems. A second bidder failed to show how it could effectively manage the program from out of state, and that proposal had other shortcomings as well. Frankel pf. at 10-11.

13. After consideration with the VT-EDP Advisory Council member, the Department selected the VCDHH proposal as the best proposal. Frankel pf. at 7.

III. DISCUSSION

The VT-EDP program is an adjunct to the state's telecommunications relay service.¹ The VT-EDP program provides equipment to assist deaf, deaf-blind, hearing impaired or speech impaired persons to communicate by telephone.² The statute directs the Department to solicit competitive bids from qualified vendors to administer the VT-EDP and to file its recommendation as to the vendor or vendors that should be chosen to administer the VT-EDP.³ The Board:

1. See 30 V.S.A. § 218a.

2. 30 V.S.A. § 218a(e).

3. 30 V.S.A. §218a(b).

after notice and opportunity for hearing may approve the proposed contract, or a modified version thereof, if it is just and reasonable, giving due consideration to costs, quality of service and the interests of the deaf, hearing impaired and speech impaired community. 30 V.S.A. § 218a(c).

The VT-EDP program has historically been unable to expend a majority of its authorized equipment budget. Most recently, this was the result of ineffective "outreach" to the population that should be receiving the benefits. A secondary effect of low benefit outlays was a high percentage of administrative expense.

The Department entered into a competitive bidding process for the administration of the VT-EDP program application and distribution of benefits. The Department received three bids, one of which came from the current contractor that has been demonstrably unsuccessful in administering the program. Another bid came from a contractor located hundreds of miles away, and the Department was not persuaded that the bidder could effectively manage the program.⁴ After consulting with a member of the VT-EDP Advisory Council, the Department selected the VCDHH as offering the best proposal.

Under the VCDHH proposal, administrative expense would increase to more than \$44,000 per year. Even assuming the best case that all the program monies are expended, this will amount to 60 percent of the total budget. This is a high ratio of administrative expense to program benefit.

The Department justifies this by asserting that:

underestimating the level of support needed for administration and outreach is a foolish economy in that it prevents the program from reaching its intended target population, and sets the vendor up for failure.⁵

While the administrative cost of the winning bid is high, neither of the other two bids seems to offer a reasonable alternative. Moreover, the Department correctly points out that while a different vendor may offer lower administrative costs, that could be a false economy if the vendor is less effective in delivering program benefits. Also, with a program this small, there are essentially no economies of scale.

4. Frankel pf. at 10.

5. Frankel pf. at 9-10.

I conclude that the Board should defer to the Department's judgment about which of the three bids will offer the best value to the state. Therefore, after giving due consideration to costs, quality of service and the interests of the deaf, hearing impaired and speech impaired community, I conclude that the contract recommended by the Department is just and reasonable.

The Department submitted in writing that it waives its right to comment on this Proposal for Decision in accordance with 3 V.S.A. § 811. The Hearing Officer accepts that waiver.

Dated at Montpelier, Vermont, this 8th day of September, 2004.

s/Peter M. Bluhm

Peter M. Bluhm, Esq., Hearing Officer

IV. BOARD DISCUSSION

We accept the findings and recommendations of the Hearing Officer. However, we are disturbed that under this contract, during the next two years more than three of every five budgeted dollars will be spent on administrative overhead. A high administrative cost may be inherent in a program that operates in a small state and is dedicated to such specialized needs. The expense associated with providing effective notice to such a limited population obviously will drive the cost of the program. Nevertheless, this is an extraordinarily high expense ratio.

The Department has shown that it made a rational choice among the three bids actually submitted. Yet, as stated above, the administrative cost is high. While we approve the contract this time, we ask the Department to take a hard look at this program before negotiating a renewal in 2006.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings and recommendations of the Hearing Officer are adopted.
2. The contract between the Department and VCDHH to administer the VT-EDP program application process and distribution of benefits is hereby approved as submitted.

Dated at Montpelier, Vermont, this 15th day of September, 2004.

_____)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 20, 2004

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.